



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: March 1, 2011
To: Honorable Mayor & City Council
From: Mahdi Aluzri, Assistant City Manager
Scott Miller, Chief Financial Officer
Subject: **Measure O – Potential for fiscal impacts on residents, businesses, and non-profit property owners in the City with royalty agreements**
Attachments: Staff Report, Resolution and Ordinance

INTRODUCTION

Council members Nancy Krasne and John Mirisch asked to place this item on the agenda to allow for further discussion by the City Council and possible direction to staff pertaining to the implementation of Measure O should it be approved by the voters in Municipal Election scheduled on March 8, 2011.

DISCUSSION

The City Council at its meeting on December 7, 2010 adopted the attached Resolution placing the ordinance implementing Measure O on the ballot for the March 8, 2011 Municipal Elections. Concern has been expressed by community members over the potential fiscal impacts to property owners currently holding mineral rights as result of the increase in the tax on the extraction of oil and gas as contemplated in Measure O.

The City Attorney's Office has confirmed that the City Council at this point has no authority to modify the language of the Measure to address the concerns raised. However, that does not preclude the development of a program to deal with the issues raised should the measure pass. Staff will require time to develop options and recommendations for mechanisms to address such fiscal impact to residents should the City Council direct the development of such mechanism. It is anticipated that the item could be returned to the City Council's second meeting in April if the Measure is approved by voters.

FISCAL IMPACT

As previously indicated, if Measure O passes, it is anticipated to generate approximately \$1.2 million annually to the City's General Fund. Staff will bring forth information on any additional fiscal impact if the measure passes and if the City Council directs the development any mechanism as suggested above.

Meeting Date: January 10, 2005

RECOMMENDATION

City Council should discuss Measure O and provide direction to staff.



Jeff Kolin
Approved By

Attachment 1



AGENDA REPORT

Meeting Date: December 7, 2010
Item Number: C-1
To: Honorable Mayor and City Council
From: Mahdi Aluzri, Assistant City Manager
Scott Miller, Director of Administrative Services

Subject: A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS REVISING THE BALLOT QUESTION CONCERNING A MEASURE TO INCREASE THE TAX ON OIL EXTRACTED FROM THE CITY, TO ESTABLISH A TAX ON NATURAL GAS EXTRACTED FROM THE CITY AND TO AMEND THE DEFINITION OF GROSS RECEIPTS IN THE BUSINESS TAX REGULATIONS OF THE BEVERLY HILLS MUNICIPAL CODE

Attachments:

1. Amended Resolution
2. Ordinance
3. November 30, 2010 Agenda Report
4. Previously adopted Resolution

RECOMMENDATION

Staff recommends that the City Council adopt the resolution amending the ballot question for the oil and natural gas extraction tax measure that has been placed on the March 8, 2011 Municipal Election ballot

INTRODUCTION

At its meeting of November 30th, the City Council adopted a resolution to place on the March 8, 2011 ballot a proposed Oil and Natural Gas Extraction Tax Ballot Measure. Since that time, City Staff has had the opportunity to review ballot language for similar issues in nearby jurisdictions and believes that the proposed ballot question does not adequately explain that the tax revenue will be placed in the general fund to support general fund services. Therefore, staff is recommending that the City Council revise the proposed ballot question. .

DISCUSSION

Similar to scores of other California cities, the City of Beverly Hills has grappled with several years of declining revenue and Sacramento money grabs. As a result, the City has had to make significant budget cuts of \$18 Million in Fiscal Year 2009-10 and \$9 Million in Fiscal Year 2010-11. Without adjustments, the deficit for Fiscal Year 2011-12 is projected to be approximately \$2 Million.

The City continues to work diligently to protect and maintain the essential City services that residents expect, but declining revenue has resulted in significant cuts to all City departments, including reductions to a number of full-time community service providers, such as cutting 10 police officers and reducing library staff. Library hours have been cut, the City no longer has daily commercial road/street maintenance, and grants to community-based service organizations have been reduced. As the result of budget cuts, City Hall will be also be closed for several days this month when constituents commonly contact or visit our city departments for assistance and information.

We continue to look for every opportunity to bring revenue into the City in a fiscally responsible manner that does not unduly impact our local residents and business community.

The attached ordinance remains the same as was reviewed and adopted by the City Council at the November 30, 2010 meeting. A comprehensive discussion of the ordinance and its provisions is outlined in the attached agenda report from that meeting.

While the ordinance remains the same, staff has come to believe that the ballot question could better inform residents of the content of the ordinance. Most importantly, unlike ballot questions in other jurisdictions, the ballot question does not indicate that the revenue from the proposed tax measure would be deposited in the general fund and support general fund services 9-1-1 services, police and fire services, road/street maintenance, library and senior services, and our joint powers agreement with our local schools.

FISCAL IMPACT

This Measure is NOT a tax on residents or the larger Beverly Hills business community. This measure ONLY affects companies that extract oil and natural gas from the City. Most of those companies drill under the City from locations outside the City. The revenue generated by this measure is projected to be as much as \$1.2 Million annually, all of which will be deposited into the City's General Fund to support and maintain essential city services the Beverly Hills public relies on, such as 9-1-1, police and fire services, road/street maintenance, library and senior services, and our joint powers agreement with our local schools (note that this measure will not affect or otherwise influence the status of the oil lease at Beverly Hills High School).



Scott G. Miller
Finance Approval

Mahdi Aluzri 

Approved By

Attachment 2

RESOLUTION NO. ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS REVISING THE BALLOT QUESTION
CONCERNING A MEASURE TO INCREASE THE TAX ON
OIL EXTRACTED FROM THE CITY, TO ESTABLISH A TAX
ON NATURAL GAS EXTRACTED FROM THE CITY AND TO
AMEND THE DEFINITION OF GROSS RECEIPTS IN THE
BUSINESS TAX REGULATIONS OF THE BEVERLY HILLS
MUNICIPAL CODE

THE COUNCIL OF THE CITY OF BEVERLY HILLS DOES RESOLVE AS FOLLOWS:

WHEREAS, The City of Beverly Hills is committed to maintaining the quality of life in our City and the essential City services that residents depend on; and

WHEREAS, similar to scores of other California cities, Beverly Hills has faced significant declines in revenue and millions of dollars in State financial takeaways in recent years; and

WHEREAS, the City has made dramatic cuts in recent years including \$18 million in fiscal year 2009-10 and \$9 million in fiscal year 2010-11; and

WHEREAS, these cuts have resulted in reductions to essential services the Beverly Hills public relies on, including reductions in the number of full-time service employees, reductions in library hours and staff, and reductions in funding for community service organizations and cuts to the police department, among others; and

WHEREAS, the City has a projected \$2 million budget deficit this year and is committed to identifying funding solutions that protect and maintain our support for local schools and services such as 9-1-1 response; police, fire and paramedic services; and maintenance and repair of local streets; and

WHEREAS, updating the City's oil extraction tax structure will increase revenue in a fiscally responsible manner that does not negatively impact local residents and the greater business community; and

WHEREAS, the change to the definition of gross receipts will not change the tax rate of any taxpayer but will eliminate the requirement that the City of Beverly Hills defer to an apportionment decision made by another local government, such as the City of Los Angeles, if that other local government attempts to tax business activity, including oil and natural gas extraction, that is properly attributed to Beverly Hills; and

WHEREAS, on November 30, 2010, the City Council submitted to the voters of the City of Beverly Hills a measure to enact an ordinance to increase the tax imposed on the extraction of oil from the City of Beverly Hills, to establish a tax on the extraction of natural gas from the City of Beverly Hills, and to amend the definition of gross receipts as used in the City's business license tax regulations; and

WHEREAS, the measure shall be submitted to the voters at the general municipal election to be held on March 8, 2011; and

WHEREAS, the measure is NOT a tax on residents or the greater Beverly Hills business community and ONLY affects companies that extract oil and natural gas from our city; and

WHEREAS, the revenue generated by the measure is projected to be as much as \$1.2 Million annually to support and maintain essential city services such as public safety, road/street repair, library and senior services, and support for local schools; and

WHEREAS, the revenue generated by this measure, as with all city revenues, is subject to an annual audit by an independent auditor; and

WHEREAS, the City Council believes that the proposed ballot question does not adequately identify that revenue from this measure will be placed into the general fund and not into any special funds;

NOW THEREFORE

Section 1. The City Council hereby revises the ballot question for the above referenced measure to read as follows:

"Shall an ordinance that increases the oil extraction tax imposed on oil companies and establishes a natural gas extraction tax on oil and gas companies for deposit into the General Fund to support general fund services including police, fire, paramedics, library, administrative support services, and street and park maintenance, and that makes a change to the definition of gross receipts set forth in the Beverly Hills Municipal Code, be adopted"?	YES _____	NO _____
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Section 2. The text of the measure shall remain unchanged and the full text of the measure is the proposed ordinance attached hereto for reference as Exhibit A.

Section 3. The City Clerk and all other officers of the City are hereby authorized and directed to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to complete the process for revising the ballot question as provided above.

Section 4. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and its certification to be entered in the Book of Resolutions of the Council of this City.

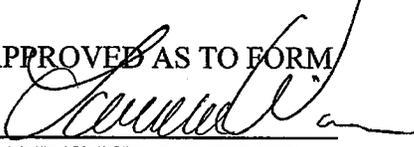
Adopted: December 7, 2010

JIMMY DELSHAD
Mayor of the City of
Beverly Hills, California

ATTEST

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM



LAURENCE S. WIENER
City Attorney

Attachment 3

EXHIBIT A

[See attached ordinance]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS TO AUGMENT LOCALLY CONTROLLED REVENUE FOR CITY SERVICES AND OPERATIONS BY INCREASING THE TAX IMPOSED ON OIL EXTRACTED FROM THE CITY OF BEVERLY HILLS AND ADDING A TAX ON NATURAL GAS EXTRACTED FROM THE CITY OF BEVERLY HILLS AND AMENDING THE BUSINESS TAX PROVISIONS OF THE BEVERLY HILLS MUNICIPAL CODE

THE PEOPLE OF THE CITY OF BEVERLY HILLS DO ORDAIN AS FOLLOWS:

Section 1. Subsurface deposits of oil and associated natural gas are valuable resources of the City of Beverly Hills. Severing these resources from the City by extracting them through a well depletes the resource base and wealth of the City, thereby diminishing a future source of taxes and economic activity.

Section 2. Classification "I" regarding "Oil Production" in Section 3-1-219 of Article 2 of Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended to read as follows:

"I. Classification I; Oil or Natural Gas Extraction from City of Beverly Hills: All registrants engaged in severing resources from the City of Beverly Hills by extracting oil or natural gas from the City, and classified by finance administration as classification I, Oil or Natural Gas Extraction from City of Beverly Hills, shall pay an annual tax of Two Thousand Dollars (\$2,000), which tax shall be adjusted annually pursuant to the terms of Article 10 of this Chapter, for each extraction well that is used in the extraction of oil or natural gas from the City of Beverly Hills, plus an additional annual gross receipts tax of two and one-half percent (2.5%) of gross receipts derived from the sale of oil and natural gas extracted from the City of Beverly Hills, based on the annualized actual such gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year. Oil and natural gas will be deemed extracted from the City of Beverly Hills if oil or natural gas is extracted from a well that is bottomed in the City of Beverly Hills."

Section 3. The definition of "Gross Receipts" set forth in Section 3-1-205 of Article 2 of Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended by

deleting in its entirety exclusion "I" that reads "I. The amount of gross receipts which has been the measure of a business tax paid to any other city."

Section 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect. It is the intention of the City Council that, if any tax increased or imposed by this Ordinance is for any reason held to be unconstitutional or otherwise invalid, it is the intent of the City Council that the tax which would have been in existence and imposed had this ordinance not been adopted shall remain effective.

Section 5. The City Council of the City of Beverly Hills may delete, restore, amend or alter any of the provisions of this ordinance and any provision of the Beverly Hills Municipal Code affected by this ordinance provided that such action does not establish any new tax or increase any existing tax.

Section 6. Pursuant to Elections Code Section 9217, this ordinance shall be considered adopted on the date that the City Council declares a majority vote in favor of the ordinance and shall go into effect ten (10) days after that date. However, the provisions of this ordinance shall not apply to business license taxes for the calendar year 2011 provided that the registrant has paid the 2011 business license tax prior to the effective date of this ordinance.

Adopted: _____

Effective: _____

By: _____
Mayor of the City of Beverly Hills,
California

ATTEST:

_____(Seal)
BYRON POPE
City Clerk